IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE SEVENTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE DR JUSTICE G.YETHIRAJULU

WRIT PETITION NO : 16734 of 2004

Between:

No. 1483651-H HAVALDAR/CLERK(GENERAL DUTIES) APPASAHEB MANGAVATI, (Presently working with Respondent No.3, R/o 148 Movement Control (Independent) Area, Secunderabad-A.P.

..... PETITIONER

AND

1 The Chairman Station Quartering Committee, C/o Station Headquarters, Secunderabad-A.P.
2 The Officer Commanding, 148 Movement Control (Independent) Area, Secunderabad(AP).
3 The Commanding Officer, Army Digital Mapping Centre, Maruthi Seva Nagar, P.O. Bangalore - 560 033 (KAR).

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a direction, orders or a Writ, more appropriately one in the nature of a Writ of Mandamus directing/declaring the action of the respondents herein "Declare to declare the proceedings No. 1069/11/Q dated 25 Aug, 2004 directing the petitioner herein to vacate the accommodation No. 106/08 Ordnance Lines, Secunderabad (AP), without offering any other Government Married Accommodation of appropriate specification as being violative of petitioner's Legal Right to retain government Married accommodation allotted to him in terms of Regulations for the Army Para 1025 as also Government of India Ministry of Defence Letter No. 1 (1)/89/D (Q & C) dated 28, July 1993 and therefore offending the rights of the petitioner herein guaranteed under Article 14, 16 and 21 of the Constitution of India and thus ULTRA VIRES.

Counsel for the Petitioner: MR.VISHAL SAXENA

Counsel for the Respondents: MR.ARAJASHEKAR REDDY (SC FOR CG)

The Court at the stage of admission made the following :

ORDER

The petitioner contends that he was posted to the 2nd respondent unit in the month of March 2004 and later he was posted to the field area through the orders of the 2nd respondent. The petitioner filed W.P. Nos. 9863 of 2004 and 9889 of 2004 before this Court and in pursuance of the orders of this Court; he was posted to 3rd respondent unit. But at the time of posting of the petitioner to 2nd respondent unit in the month of March 2004, he was allotted married accommodation in April 2004 and the petitioner kept his family in the said accommodation. He was posted to 3rd respondent unit in the month of June 2004 and he is working at Bangalore.

The grievance of the petitioner is that the 2nd respondent issued an eviction notice dated 25.8.2004 asking the petitioner to vacate the married accommodation immediately. Therefore, the petitioner approached this Court with the present writ petition seeking an appropriate direction to the respondents.

Respondents are contending that there are priorities in allotment of quarters and as the petitioner is not entitled to continue in the married accommodation, 2nd respondent has right in asking the petitioner to vacate the accommodation allotted to him.

As per rules, the petitioner can make a request to the first respondent to provide an alternative accommodation if available in the quarters of the 2nd respondent or a hired accommodation. In the event of such representation it is the duty of the 2nd respondent to verify whether any official accommodation is available and if it is not available, to secure a private accommodation for the petitioner in terms of para 67 of SAO 10/S/86.

Therefore, having regard to the facts and circumstances of the case, petitioner is directed to make a representation to the first respondent

for providing an alternative accommodation, either official or hired, and on receipt of such representation, the second respondent shall take appropriate steps regarding the request of the petitioner and provide such alternative accommodation in terms of para 67 of SAO 10/S/86 or under other relevant provisions to enable the petitioner to shift his family. Petitioner shall be allowed to continue in the present accommodation till such alternative arrangement is made.

17-09-2004

Kvsn.

To

1 The Chairman Station Quartering Committee C/0 Station Head quarters, Secunderabad, (A.P)

2 The Officer Commanding, 148 Movement Control (Independent) Area,

Secunderabad(AP).

3 The Commanding Officer, Army Digital Mapping Centre, Maruthi Seva Nagar, P.O. Bangalore - 560 033 (KAR).

4. Two C D copies.